

## REMARKS

Claims 1-20 are pending in this Application. Applicant has amended claims 1-3, 6-12, and 15-18 to define the claimed invention more particularly. Applicant has added new claims 19 and 20 to claim additional features of the invention and provide varied protection for the invention.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 17 and 18 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 2-14 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 1-18 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicant has amended the claims to address the Examiner's concerns.

Claims 1-5 and 8-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weir et al. (US 2002/0192631, and hereinafter "Weir") in view of Abrahamson et al. (US Patent No. 5,002,491, and hereinafter "Abrahamson"). Claims 1-5 and 8-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weir in view of Abrahamson, and further in view of Masuda (US Patent No. 6,915,105).

Applicant respectfully traverses these rejections in the following discussion.

### **I. THE CLAIMED INVENTION**

The claimed invention (e.g., as defined by exemplary claim 1) is directed to an information gathering system in an event hall.

The information gathering system performs transmission and reception of questionnaire information between an information gathering server for gathering the questionnaire information based on a questionnaire carry-out schedule for each event hall and contents of a questionnaire and portable user terminals carried by persons who have entered an event hall, wherein the system has area terminals provided area by area in the event hall for relaying the questionnaire information.

The system performs transmission and reception of the questionnaire information between the information gathering server and the area terminals over an Internet, and between the area terminals and the portable user terminals by close-range wireless communication.

A conventional information collection of questionnaires, as described in the Background of the present Application, by using portable terminals is to store data on persons who answered to questionnaires, compares conditions presented by a client with the stored data on the answerers when the client has requested a questionnaire, extracts those answerers who fulfill the conditions, and transmits a request for an answer to the questionnaire to portable terminals of the persons (e.g., see Application at page 1, lines 13-23)

The conventional system, however, requires connection of the portable terminal of each answerer to the questionnaire survey server over a network at the time of receiving a request for an answer to the questionnaire and at the time of making an answer to the questionnaire. This would place a burden on the answerers to pay a communication fee or the like (e.g., see Application at page 2, lines 14-19).

On the contrary, by the arrangement of the claimed information gathering system, since users in an event hall are targets for a questionnaire survey in the invention, the users in all the areas in the event hall become targets. This would advantageously eliminate a need for providing the information gathering server with a device which registers personal information of users based on the conditions (e.g., see Application at page 23, line 25 –page 24, line2).

## **II. 35 U.S.C. 101 REJECTION**

In rejecting claims 17 and 18, the Examiner alleges that the claims are directed to non-statutory subject matter.

Applicant amended claims 17 and 18 to recite, “*computer-readable storage medium encoded with a computer program*,” to define the claimed invention more particularly.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

## **III. 35 U.S.C. 112, FIRST PARAGRAPH REJECTION**

In rejecting claims 2-14, the Examiner alleges that the claims fail to comply with the enablement requirements.

Applicant amended the claims, consistent with the Examiner's helpful suggestions.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

#### IV. 35 U.S.C. 112, SECOND PARAGRAPH REJECTION

In rejecting claims 1-18, the Examiner alleges that the claims are indefinite for failing to particularly point out the invention.

Applicant amended the claims, consistent with the Examiner's helpful suggestions.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

#### V. THE PRIOR ART REJECTIONS

##### A. The 103(a) Weir and Abrahamson reference rejection

In rejecting claims 1-5 and 8-10, the Examiner alleges that one of ordinary skill in the art would have combined Weir with Abrahamson to render obvious the claimed invention. Applicant respectfully submits, however, that the references would not have been combined as alleged by the Examiner and that, even if combined, the alleged combination of references would not teach or suggest each and every feature of the claimed invention.

That is, Weir and Abrahamson do not teach or suggest, "*a device by which said information gathering server transmits said contents of said questionnaire to associated area terminals over said network when said questionnaire start date has come,*" (emphasis added by Applicant) as recited in claim 2, and similarly recited in claims 1, 3, 11, 12, 15, 16, 17, and 18.

Indeed, the Examiner concedes that Weir fails to disclose an event hall with a plurality of areas, as recited in this feature of the claimed invention (see Office Action at page 6, lines 16-19). The Examiner, however, fails to address this feature of the claimed invention (see Office Action at page 6, line 19 – page 7, line 20).

Moreover, Applicant submits that Abrahamson fails to make up the deficiencies of Weir.

Indeed, the Examiner does not even allege that Abrahamson teaches or suggests this feature. The Examiner merely relies on Abrahamson for allegedly teaching limited start and end times (e.g., see Office Action at page 7, lines 14-15).

Since Abrahamson does not overcome the deficiencies of Weir, the combination of references fails to render the rejected claims obvious.

Furthermore Applicant submits that, Weir and Abrahamson do not teach or suggest, *“said system comprises area terminals provided area by area in the event hall for relaying said questionnaire information,”* as recited in claim 1, and similarly recited in claims 2, 3, 11, 12, 15, 16, 17, and 18.

The Examiner concedes that Weir fails to disclose an event hall with a plurality of areas, as recited in this feature of the claimed invention (see Office Action at page 6, lines 16-19). The Examiner alleges that it is well known in the art of information gathering systems to provide area by area in an event hall (see Office Action at page 7, lines 9-13).

Applicant submits notice of facts beyond the record which may be taken by the Examiner must be *“capable of such instant and unquestionable demonstration to defy dispute.”* *“It is not appropriate for the Examiner to take official notice without citing a prior art reference where certain facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known”* (MPEP §2144.03)

In the present case, an exemplary feature of this invention is to provide a versatile survey system for each client (see specification at page 23, lines 20-24). As such, it is important to provide area terminals in area by area in the event hall for relaying said questionnaire information.

MPEP §2144.03 (c) also states, *“If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. ..If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.”*

Since Weir fails to disclose or suggest the area terminals provided area by area in the event hall for relaying said questionnaire information, and the Examiner has not provided any evidence of the facts asserted to be well-known, the claimed feature as recited by claim 1, 2, 3, 11, 12, 15, 16, 17, and 18 is not well known.

Furthermore, in rejecting claims 2, 3, 11, 12, 15, 16, 17, and 18, the Examiner concedes that Weir fails to disclose, *“a device by which said area terminal having received said answer to said questionnaire affixes a hall/area ID and a present date to said answer to*

*said questionnaire and transmits that answer to said questionnaire to said information gathering server over said network, and allows said information gathering server to store those pieces of information,”* as recited in claim 2, and similarly recited in claims 3, 11, 12, 15, 16, 17, and 18 (see Office Action at page 6, lines 16-19). The Examiner, however, alleges that this feature is inherent in an information gathering system (see Office Action at page 6, last line).

Applicant submits that the Examiner has failed to meet his burden in establishing that the claimed features are inherent. Indeed, in order to establish that the claimed features are inherent, the Examiner must establish that the inherent features are necessarily present in the applied reference (see M.P.E.P. § 2112 IV.) The Examiner has failed to meet this burden, since he has not shown how *“a device by which said area terminal having received said answer to said questionnaire affixes a hall/area ID and a present date to said answer to said questionnaire and transmit that answer to said questionnaire to said information gathering server over said network, and allows said information gathering server to store those pieces of information,”* as recited in claim 2, and similarly recited in claims 3, 11, 12, 15, 16, 17, and 18, is necessarily present in Weir.

Moreover, the Examiner alleges that it is well known in the art of information gathering systems to affixes a hall/area ID and a present date to the answer to the questionnaire (see Office Action at page 7, lines 3-5).

Applicant submits notice of facts beyond the record which may be taken by the Examiner must be *“capable of such instant and unquestionable demonstration to defy dispute.”* *“It is not appropriate for the Examiner to take official notice without citing a prior art reference where certain facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known”* (MPEP §2144.03)

In the present case, an exemplary feature of this invention is to provide an efficient and versatile survey system for each client. As such, it is important to have terminal which has received the contents of the answer to the questionnaire affixes the contents with the present date and the hall/area ID previously set inside the area terminal and transmits the resultant information to the information gathering server (see Application at page 20, lines 18-23).

MPEP §2144.03 (c) also states, *“If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next*

*Office action if the rejection is to be maintained. ...If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.”*

Since Weir fails to disclose or suggest to affixes a hall/area ID and a present date to the answer to the questionnaire, and the Examiner has not provided any evidence of the facts asserted to be well-known, the claimed feature as recited by claims 2, 3, 11, 12, 15, 16, 17, and 18 is not well known.

Moreover, in rejecting claim 3, the Examiner alleges that it is well known in the art of information gathering systems to transmit name and personal information (see Office Action at page 10, lines 4-5).

Applicant submits notice of facts beyond the record which may be taken by the Examiner must be “*capable of such instant and unquestionable demonstration to defy dispute.*” “*It is not appropriate for the Examiner to take official notice without citing a prior art reference where certain facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known*” (MPEP §2144.03)

In the present case, an exemplary feature of this invention is to provide an efficient and versatile survey system for each client (see specification at page 23, lines 20-24). As such, it is important to transmit names and personal information of clients.

MPEP §2144.03 (c) also states, “*If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. ...If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.*”

Since Weir fails to disclose or suggest the transmit of names and personal information of participants, and the Examiner has not provided any evidence of the facts asserted to be well-known, the claimed feature as recited by claim 3 is not well known.

Furthermore, Applicant submits that Weir and Abrahamson do not teach or suggest, “*a device by which said information gathering server draws a gift getting person from those persons who have answered said questionnaire when said questionnaire end date has come, transmits the name of said gift getting person to that area terminal which corresponds to*

*said gift getting person over said network, and transmits combination information of said name of said gift getting person and said personal identification number to that hall terminal which corresponds to said gift getting person over said network; and a device by which said area terminal having received said name of said gift getting person transfers said name of said gift getting person to those portable user terminals which are located in the same area by close-range wireless communication,” as recited in claim 3, and similarly recited in 12, 16, and 18.*

The Examiner erroneously refers to Inselberg, which is an unidentified reference, and alleges that Inselberg teaches the claimed feature (see Office Action at page 10, lines 9-13). The Examiner also attempts to combine the unidentified reference Inselberg with the teachings of weir (see office Action at page 10, lines 16-18; page 11, line 6). The Examiner, however, has not based the rejection of claim 3 upon Inselberg (see Office Action at page 5, section 8, lines 1-3). Applicant requests appropriate correction.

Moreover, the Examiner alleges that the feature “*a device by which said information gathering server draws a gift getting person from those persons who have answered said questionnaire when said questionnaire end date has come, transmits the name of said gift getting person to that area terminal which corresponds to said gift getting person over said network, and transmits combination information of said name of said gift getting person and said personal identification number to that hall terminal which corresponds to said gift getting person over said network; and a device by which said area terminal having received said name of said gift getting person transfers said name of said gift getting person to those portable user terminals which are located in the same area by close-range wireless communication,” as recited in claim 3, and similarly recited in 12, 16, and 18, is well known in the art of information gathering systems (see Office Action at page 10, lines 14-15).*

Applicant submits notice of facts beyond the record which may be taken by the Examiner must be “*capable of such instant and unquestionable demonstration to defy dispute.*” “*It is not appropriate for the Examiner to take official notice without citing a prior art reference where certain facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known*” (MPEP §2144.03)

In the present case, an exemplary feature of this invention is to provide an efficient and versatile survey system for each client. As such, it is important to provide the claimed gift drawing procedure (see Application at page 20, lines 18-23).

MPEP §2144.03 (c) also states, *“If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. ..If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.”*

Since Weir fails to disclose or suggest the claimed gift drawing procedure, and the Examiner has not provided any evidence of the facts asserted to be well-known, the claimed feature as recited by claims 2, 3, 11, 12, 15, 16, 17, and 18 is not demonstrated as being well known.

Moreover, in rejecting claims 4 and 5, the Examiner alleges that it is well known in the art of information gathering systems to have a different contents from one area to another (see Office Action at page 10, last paragraph).

Applicant submits notice of facts beyond the record which may be taken by the Examiner must be *“capable of such instant and unquestionable demonstration to defy dispute.” “It is not appropriate for the Examiner to take official notice without citing a prior art reference where certain facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known”* (MPEP §2144.03)

In the present case, an exemplary feature of this invention is to provide an efficient and versatile survey system for each client. As such, it is important to have different contents of the questionnaire from one area to another (see Application at Fig. 4).

MPEP §2144.03 (c) also states, *“If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. ..If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.”*

Since Weir fails to disclose or suggest different contents from one area to another, and the Examiner has not provided any evidence of the facts asserted to be well-known, the claimed feature as recited by claims 2, 3, 11, 12, 15, 16, 17, and 18 is not well known.

Moreover, Applicant submits that one with ordinary skill in the art would not have combined Weir with the teachings of Abrahamson.



That is, the Examiner merely refers to the advantages of Abrahamson (secondary reference), but fails to provide any reasoning for combining the features of Weir with the teachings of Abrahamson (see Office Action at page 7, lines 16-20). At most, the Examiner merely makes a circular argument wherein the motivation to modify the primary reference is to obtain the benefits of having modified it.

Indeed, the Examiner attempts to pick and choose different elements and functions from the devices of Abrahamson to enable the non-analogous device of Weir to have a structure similar to the claimed system. Therefore, Applicant respectfully submits that the Examiner is improperly using the claimed invention as a roadmap and that one of ordinary skill in the art would not have combined the references as alleged by the Examiner.

Moreover, Applicant submits that adding the teachings of Abrahamson to the device of Weir would change the principle of operation of Weir, since the references teach two distinct systems that have different structures, are for different purposes, and perform in different environments.

Since the alleged combination of the Weir with the teachings of Abrahamson would not result in a reasonable expectation of success, the Examiner has not established a *prima facie* case of obviousness. Therefore, one with ordinary skill in the art would not have combined the references, as alleged by the Examiner.

Therefore, Applicant respectfully submits that one with ordinary skill in the art would not have combined Weir with the teachings of Abrahamson, and even if combined, the alleged combination does not teach or suggest (or render obvious) each and every feature of the claimed invention. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

#### **B. The 103(a) Weir, Abrahamson, and Masuda reference rejection**

In rejecting claims 6-7 and 11-18, the Examiner alleges that one of ordinary skill in the art would have combined Weir with Abrahamson and Masuda to render obvious the claimed invention. Applicant respectfully submits, however, that the references would not have been combined as alleged by the Examiner and that, even if combined, the alleged combination of references would not teach or suggest each and every feature of the claimed invention.

That is, Weir, Abrahamson, and Masuda do not teach or suggest, “*a device by which said information gathering server registers hall-by-hall/area-by-area questionnaire information including event halls and areas targeted for a questionnaire, a questionnaire start date, a questionnaire end date, and contents of said questionnaire based on questionnaire request information sent from said client terminal; a device by which said information gathering server transmits said contents of said questionnaire to associated area terminals over said network when said questionnaire start date has come; a device by which an area terminal having received said contents of said questionnaire transfers said contents of said questionnaire to those portable user terminals which are located in the same area by close-range wireless communication; a device by which each of said portable user terminals having received said contents of said questionnaire inputs an answer to said questionnaire and transmits said answer to said questionnaire to that area terminal in the same area by close-range wireless communication; and a device by which said area terminal having received said answer to said questionnaire affixes a hall/area ID and a present date to said answer to said questionnaire and transmits that answer to said questionnaire to said information gathering server over said network, and allows said information gathering server to store those pieces of information,*” as recited in independent claim 2, and similarly recited in independent claims 3, 11, 12, 15, 16, 17, and 18.

Indeed, Weir and Abrahamson, as set forth above in section A, fail to teach or suggest the claimed invention.

Moreover, Applicant submits that Masuda fails to make up the deficiencies of Weir and Abrahamson

Indeed, the Examiner does not even allege that Masuda teaches or suggests this feature. The Examiner merely relies on Masuda for allegedly teaching charge in a learning process (e.g., see. Office Action at page 11, lines 11-12).

Since Masuda does not overcome the deficiencies of Weir and Abrahamson, the combination of references fails to render the rejected claims obvious.

Furthermore, Applicant submits that the Examiner has failed to address features of independent claims 11, 12, 15, 16, 17, and 18.

That is the Examiner erroneously bases his rejection upon Inselberg, which is an unidentified reference (see Office Action at page 11, lines 6). Indeed, the Examiner’s rejection base on Inselberg is inconsistent with the claims rejection based on Weir,

Abrahamson, and Masuda (see Office Action at page 11, lines 3-5).

Moreover, Applicant submits that one with ordinary skill in the art would not have combined Weir with the teachings of Abrahamson and Masuda.

That is, the Examiner merely refers to the advantages of Masuda (secondary references), but fails to provided any reasoning for combining the features of Weir and Abrahamson with the teachings of Masuda (see Office Action at page 11, lines 13-15). At most, the Examiner merely makes a circular argument wherein the motivation to modify the primary reference is to obtain the benefits of having modified it.

Indeed, the Examiner attempts to pick and choose different elements and functions from the devices of Abrahamson and Masuda to enable the non analogous device of weir to have a structure similar to the claimed system. Therefore, Applicant respectfully submits that the Examiner is improperly using the claimed invention as a roadmap and that one of ordinary skill in the art would not have combined the references as alleged by the Examiner.

Applicant submits that adding the teachings of Masuda to the devices of Abrahamson and Weir would change the principle of operation of Weir, since the references teach distinct systems that have different structures, are for different purposes, and perform in different environments.

Since the alleged combination of the Weir with the teachings of Abrahamson and Masuda would not result in reasonable expectation of success, the Examiner has not established a *prima facie* case of obviousness. Therefore, one with ordinary skill in the art would not have combined the references, as alleged by the Examiner.

Furthermore, Applicant submits that the Examiner has failed to address the features of claim 17-18 and has not provided a reason that why one with ordinary skill in the art would have combined the alleged references to render claims 17 and 18 obvious (see Office Action at page 12, lines 3-4). Applicant requests appropriate correction.

Therefore, Applicant respectfully submits that one with ordinary skill in the art would not have combined Weir with the teachings of Abrahamson and Masuda, and even if combined, the alleged combination does not teach or suggest (or render obvious) each and every feature of the claimed invention. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

## VI. NEW CLAIMS

New claims 19 and 20 have been added to claim additional features of the invention and to provide more varied protection for the claimed invention. The claims are independently patentable because of the novel features recited herein.

Applicant submits that new claims 19 and 20 are patentable at least because of similar reasons to those set forth above with respect to claims 1-18.

## VII. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

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